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MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

INCOME-TAX

New Delhi, the 15th April 1957.

S.R.O. 1220.—The following draft of the rules (as in the annexure) which the Central Government proposes to make in exercise of the powers conferred by sub-section (2C) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), is published for general information. Any comments which may be received on the draft by the end of April 1957 will be taken into consideration before the rules are finalized.

In exercise of the powers conferred by sub-section (2C) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Government hereby makes the following rules, namely:—

1. These rules may be called the 'Income-tax Allowances (Current Profits Deposit) Rules, 1957.'

DEFINITIONS

2. In these Rules,—

- (1) "Act" means the Indian Income-tax Act, 1922 (11 of 1922).
- (2) "approved purpose" means any purpose which involves the utilisation of the financial resources of a company for—
 - (i) capital expenditure for the construction, erection or acquisition, by way of replacement or otherwise, of buildings, plant, machinery and other fixed assets required for the purpose of the existing business of the company;
 - (ii) repayment of moneys borrowed by the company on the security of its fixed assets for the purpose of carrying on such business;
 - (iii) and includes any other purpose the application of the financial resources of a company on which, is, in the opinion of the Commissioner of Income-tax or Board of Referees, having regard to the nature of the company's business (and such other circumstances as he or the Board of Referees may consider relevant), justified.
- (3) "Bank" means the Reserve Bank of India and includes its agencies carrying on agency business on behalf of the Reserve Bank of India.
- (4) "Board of Referees" means the Board of Referees appointed under rule 16.
- (5) "current profits deposit" or 'deposit' means the deposit which a company has to make with the Central Government under sub-section (2B) of section 10 of the Act at a percentage of the amount by which the statutory surplus, as hereinafter defined, exceeds the sum of rupees one lakh.

- (6) "due date" with reference to deposit means the 30th day of June of the year following the "previous year".
- (7) "Form" means a Form appended to these Rules.
- (8) "statutory surplus" means the sum of the following amounts, namely:—
- (a) the total income of the company for the previous year, as reduced by the amount of income-tax and super-tax payable in respect thereof and by the dividends, if any declared during the previous year, and
 - (b) the sum of the allowances made under clauses (vi), (via), (vib) or (vii) of subsection (2) of section 10 of the Act.

COMPUTATION OF THE DEPOSIT IN CERTAIN CASES

3. For the purpose of determining the current profits deposit in the case of a company incorporated outside India, the dividends declared during any previous year shall be—

- (i) the dividends actually declared by it in India in respect of its business in India, or
- (ii) where no dividends are declared in India, that proportion of the dividends declared at the registered office of the company as the profits and gains of its Indian business bear to the total profits and gains out of which the dividends are declared at the registered office.

4. Where any portion of the profits and gains of a company is not included in its total income by reason of such portion being exempt from tax under any provision of the Act, the amount of the dividends declared during the previous year shall, for the purpose of determining the current profits deposit, be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year reduced by such allowances as may be admissible under the Act which have not been taken into account by the company in its profit and loss account for that year.

PROCEDURE FOR MAKING THE DEPOSIT

5. The deposit shall be made by the company on or before the due date without any notice or requirement therefor from the Income-tax Officer who shall make available to the company on request the requisite number of challans to enable it to make the deposit:

Provided that in the case of a company whose previous year ends after the 31st day of December and before the 1st day of May, any deposit made by it within six months of the end of the previous year shall be deemed to have been made on the due date.

6. The amount to be deposited shall be calculated in whole units of rupees, fractions of a rupee being ignored.

7. The amount shall be deposited with the Bank who will credit it, to the Government account under the head of account:

P. Deposits and Advances—B. Other Deposit Accounts—Other Deposits—
Deposits under the Income-tax Allowances (Current Profits Deposit)
Rules, 1957.

8. The company shall, within fifteen days of making a deposit, furnish to the Income-tax Officer a statement in Form A showing the basis on which it computed the amount of the deposit and a receipt from the Bank for the amount deposited.

9. If it so desires, a company may, in lieu of making a deposit of money in the Bank, deposit Government securities of the requisite market value with the Bank, which shall hold such securities in its custody, and the provisions of these rules relating to refunds shall apply to the return of such securities as they apply to refund of deposits. No interest shall be payable by the Government on the securities deposited under these rules. The interest due on the securities according to the terms of their issue will be realised and paid by the Bank after deduction of the usual collection charges.

10.(1) Where the amount of deposit computed on the basis of the assessment made under section 23 of the Act exceeds the sum of the amounts actually deposited.

or deemed under rule 11(2) to have been deposited by a company, the full amount of deposit shall be deemed to have been made on the due date and the consequences under sub-section (2B) of section 10 of the Act of not making the deposit thereunder shall not apply to the company, if the company on being directed by the Income-tax Officer, deposits with the Bank within a period of thirty days of the receipt by the company of the Income-tax Officer's direction, the whole amount of such excess, together with interest calculated at the rate of six per cent on the amount by which the total deposit due on the basis of the assessment exceeds the sum of the amounts originally deposited or deemed under rule 11 to have been deposited for the period commencing from the due date and ending on the date of such additional deposit:

Provided that, where the whole amount of such excess, together with interest calculated as aforesaid is not deposited by the company within the said period of thirty days, the company shall be deemed not to have made any deposit for the purpose of sub-section (2B) of section 10 for the relevant year, and thereupon on receipt of an intimation from the Income-tax Officer the Board of Referees shall issue on the Bank an order for the refund of the amount previously deposited by the company for that year.

(2) Notwithstanding that some amount has been deposited by the company and an additional amount is directed to be deposited by the Income-tax Officer as provided in sub-rule (1), the Income-tax Officer may make such adjustments in the assessment of the company for the relevant year as are necessary under the provisions of sub-section (2B) of section 10 of the Act as if no deposit has been made or deemed to be made on the due date under that sub-section:

Provided that the collection of tax attributable to such adjustment shall be deferred by the Income-tax Officer for the period given for payment of such additional deposit, and if the said additional deposit is made within the period allowed, the assessment shall be rectified deleting the said adjustments.

11.(1) Where a company having utilised on purposes mentioned in clauses (i) and (ii) of sub-rule (2) of rule 2 of the whole or a substantial portion of its moneys represented by reserves and accumulated profits—

(a) has also utilised on such aforesaid purposes; or

(b) requires before the due date, or the expiry of six months from the end of the previous year, as the case may be, for application on such aforesaid purpose or on a purpose which it requires to be declared as an approved purpose within the meaning of clause (iii) of sub-rule (2) of rule (2)—

the whole or a part of the moneys attributable to the statutory surplus relating to that previous year and in consequence thereof finds that the balance of the moneys attributable to the statutory surplus is or will be insufficient to make the full amount of the current profits deposit due for that year, it may before the 15th of April, following the previous year or in cases to which the proviso to rule 5 is applicable, before the expiry of three months from the end of the previous year, make a representation in Form B to the Commissioner of Income-tax in that behalf furnishing therein adequate proof to establish the facts aforesaid:

Provided that the period for making a representation in Form B under sub-rule (1) shall in no case be less than 15 days from the date of commencement of these rules.

(2) If the Commissioner of Income-tax is satisfied, on considering the representation made by the company under sub-rule (1), and after making such enquiries or calling for such information from the company as he may consider relevant, that the company cannot make the full amount of the current profits deposit for the reasons adduced by it in the said representation, he shall—

- (i) determine the portion of the moneys attributable to the statutory surplus which have been utilised or required to be utilised for approved purposes;
- (ii) determine the balance of the moneys attributable to the statutory surplus which remains after excluding therefrom the portion mentioned in (i);
- (iii) determine the amount by which the balance mentioned in (ii) falls short of the current profits deposit; and
- (iv) direct that the amount mentioned in (iii) shall be deemed to have been deposited by the company on the due date and refunded to it on the same date.

(3) Where under sub-rule (2) the Commissioner of Income-tax does not allow the company's representation in full, he shall, within ten days of his making the order under sub-rule (2), transmit to the Board of Referees the company's representation together with all the relevant documents on which he bases his decision.

(4) On receipt of the papers transmitted to them under sub-rule (3) the Board of Referees may, after making such enquiries or calling for such information from the company or the Commissioner of Income-tax as they consider necessary, and after giving an opportunity to the company of being heard in the matter, pass such orders thereon as they think fit and the provisions of clauses (i) to (iv) of sub-rule (2) shall apply to the decision of the Board of Referees as they apply to the decision of the Commissioner of Income-tax.

(5) Notwithstanding that a representation made to the Commissioner of Income-tax under sub-rule (1) is pending, or that a direction has been made by the Commissioner of Income-tax under sub-rule (2), or that an order has been passed by the Board of Referees under sub-rule (4), the company shall not be exempted from the consequences of not making the full amount of deposit due under sub-section (2B) of section 10 of the Act—

(a) unless

(i) the balance of moneys attributable to the statutory surplus not utilised nor required for application on 'approved purposes' according to the computation of the company under sub-rule (1),
plus,

(ii) the portion (not exceeding the excess of the current profits deposit over the amount referred to in (i) of the moneys required by it for application on the purposes referred to in clause (b) of sub-rule (1) which are not so applied before the 30th day of June following the previous year or the expiry of six months from the end of the previous year as the case may be,

are actually deposited with the Bank in accordance with the provisions of rule 5; and

(b) unless the amount by which that part of the current profits deposit which under sub-rule (4) is not deemed by the Board of Referees to have been deposited by the company exceeds the amount specified in clause (a) above, is actually deposited with the Bank within 15 days of receipt by the company of the order of the Board of Referees under sub-rule (4).

12. Where two or more companies amalgamate, the amounts deposited by them shall be treated as having been deposited by the new amalgamated concern.

INTEREST

13. Except as otherwise provided in these rules, any amount deposited shall carry simple interest at the rate which may be notified by the Central Government for each financial year. The interest shall be allowed from the day commencing next after the date on which the deposit is actually made; and such interest shall be computed on the basis of daily balances and paid by the Bank as on 31st March and 30th September by debit to the head of account:

22. Interest on Debt and Other obligations—C. Interest on other obligations—Interest on Deposits under the Income-tax Allowances (Current Profits Deposit) Rules, 1957.

REFUNDS

14. If at any time the company requires the whole or part of the deposit already made for carrying out any of the purposes referred to in clauses (i) and (ii) of sub-rule (2) of rule 2 or any purpose which it requires to be declared as an approved purpose within the meaning of clause (iii) of that sub-rule, it may apply to the Board of Referees in Form 'C' for a refund of such amount, or the return of such securities as are required by it for carrying out the said purposes, and if the Board of Referees is satisfied that the said requirement cannot be met out of the available resources of the company, they may issue an order of refund on the Bank authorising it to refund such amount and to return such securities as the Board considers necessary in the circumstances of the case.

The amount refunded shall be debited to the head of account:

"P. Deposits and Advances—B. Other Deposits Accounts—Other Deposits—
Deposits under the Income-tax Allowances (Current Profits Deposits).
Rules, 1957.

15. Where the total income of a company determined by the Income-tax Officer in the assessment made by him under section 23 of the Act is finally reduced as a result of any other proceedings under the Act, and the deposit originally made by the company exceeds the amount of the current profits deposit calculated with reference to the total income as so reduced finally, and the amount of deposit actually held by the Bank exceeds the current profits deposit so calculated, the Income-tax Officer shall, on an application being made in this behalf by the company in Form 'D', determine the amount of such excess and communicate it to the Board of Referees who shall issue to the Bank an order for the refund to the company of such excess.

BOARD OF REFEREES

16. The Central Government shall appoint a Board of Referees consisting of as many members as the said Government may appoint from time to time for performing the duties allotted to them under these Rules.

17. The Board of Referees shall work under the general control of the Central Government.

MISCELLANEOUS

18. No appeal shall lie against an order of the Board of Referees passed under sub-rule (4) of rule 11 or rule 14, which shall be final as respects the matters concluded by it.

19. (1) Every Form shall be submitted in duplicate and shall be accompanied in each case by certified copies of the profit and loss accounts and the balance sheets of the company for the relevant previous year and the year preceding it.

(2) All correspondence pertaining to the matters before the Board of Referees shall be addressed to the Deputy Secretary to the Government of India, Ministry of Finance, Department of Revenue, New Delhi, or to such other authority or officer as may be otherwise notified.

FORM 'A'

(See Rule 8)

Statement made to the Income-tax Officer under rule 8 of the Income-tax Allowances (Current Profits Deposits) Rules, 1957, showing the Company's computation of the Current Profit Deposit under sub-section (2B) of Section 10 of the Indian Income-tax Act, 1922.

Name of Company
Registered Office

The Current Profit Deposit made by the Company in respect of the year ended 31st March is as follows:—

- | | |
|--|-----|
| 1. Net Profit of the Company according to its Profit and Loss Account for the previous year ended..... | Rs. |
| 2. Adjustments to above to arrive at the total income of the Company for income-tax purposes— | |
| | Rs. |
| | Rs. |
| | Rs. |
| | Rs. |
| 3. Total income for income-tax purposes . | Rs. |
| 4. Add. allowances under section 10(2)(vi), (via), (vib) and (vii) of the Income-tax Act, deducted in arriving at the total income above | Rs. |
| 5. Total of 3 and 4 | Rs. |
| 6. Deductions under section 10 (2 B) : | |
| (a) Total dividends declared during the previous year | Rs. |

(b) Income-tax and Super-tax payable by the Company on the total income—

Income-tax	Rs.
Sur-charge	Rs.
Corporation tax less rebate	Rs.

Rs.

Rs.

7. Excess of 5 over 6
LESS

Rs.

Rs. 1,00,000

BALANCE

Rs.

8. Amount to be deposited at %
on Rs.

Rs.

9. Amount deposited on (date)

Rs.

10. Difference, if any, for which exemption
is separately claimed or obtained [enclose
copy of application under Rule 11(I) if
any]

Rs.

Place
Date

Signature
for Ltd.

To

The Income-tax Officer,

FORM 'B'

See Rule 11(1)

Application under sub-rule (1) of Rule 11 of the Income-tax Allowances (Current Profits Deposit) Rules, 1957, for deeming that a company made a deposit under sub-section (2B) of section 10 of the Indian Income-tax Act, 1922

To

The Commissioner of Income-tax,

1. We, Limited, having our registered office at, do hereby declare:—

(i) that according to our calculations, the statutory surplus of the company computed under the aforesaid rules is Rs.; (vide statement 1 enclosed herewith)

(ii) that the company will be required to make a deposit with the Government of India under sub-section (2B) of section 10 of the Income-tax Act, 1922, for the year ending on the 31st March of a sum of rupees against the current profits of the year ending on, vide Statement No. 2 enclosed herewith;

(iii) that on the date of this application, the portion of moneys attributable to the statutory surplus which has been utilised or is required to be utilised by the company for carrying out approved purposes is Rs. vide Statement No. 3 enclosed herewith;

(iv) that the balance of the moneys attributable to the statutory surplus vide clause (i), which remains after excluding therefrom the portion mentioned in clause (iii), is Rs.;

(v) that the amount by which the balance mentioned in clause (iv) falls short of the deposit required to be made by the company [clause (ii)] is Rs.

2. We, therefore pray that under sub-rule (1) of Rule 11 of the Income-tax Allowances (Current Profits Deposit) Rules, 1957, the Commissioner of Income-tax may direct that it shall be deemed that the company has deposited on for the year ending on 31st March a sum of rupees against the current profits, and that refund of like amount has been granted to the company on the same date.

Place

Date

Signature
for Ltd.

STATEMENT No. 1

Computation of the Statutory surplus of the Company

1. Net profit of the Company according to its profit and loss account for the previous year ended	Rs.		
2. Adjustments to above to arrive at the total income of the Company for income-tax purposes :	Rs.		
	Rs.		
	Rs.		Rs.
3. Total income for income-tax purposes	Rs.		
4. Add allowances under Section 10(2)(vi), (via), (vib) and (vii) of the Income-tax Act, deducted in arriving at the total income	Rs.		
5. Total of 3 and 4	Rs.		
6. Deductions under Section 10(2B) :			
(a) Total dividends declared during the previous year	Rs.		
(b) Income-tax and Super-tax payable by the company on the total income—			
Income-tax	Rs.		
Surcharge	Rs.		
Corporation tax, less rebate	Rs.	Rs.	Rs.
7. Excess of 5 over 6, representing the statutory surplus			Rs.
(Place)	Signature		
(Date)	for		Ltd.

STATEMENT No. 2

Computation of the Current Profits Deposit

1. Statutory surplus as per Statement No. 1	Rs.	
LESS	Rs. 1,00,000-00	
Balance	Rs.	
2. Amount required to be deposited at % on Rs.	Rs.	
(Place)	Signature	
(Date)	For	Ltd.

STATEMENT No. 3

1. The Company's total requirements for approved purposes:

- * (i) Amount already utilised since commencement of the previous year and upto the date of application on purposes mentioned at clauses (i) and (ii) of sub-rule (2) of Rule 2. (Details furnished separately) Rs.
- * (ii) Amount further required to be utilised before the due date or the expiry of six months from the end of the previous year on such afore-said purpose or on a purpose which the company requires to be declared as an approved purpose within the meaning of clause (iii) of sub-rule (2) of rule 2. (Details furnished separately) Rs.

TOTAL Rs.

2. Investments of the company according to the balance sheet as at (the last day of the year preceding the previous year) :

- (i) Government securities Rs.
- (ii) Debentures of companies & local authorities Rs.
- (iii) Shares of other companies Rs.
- (iv) Loans, deposits and other non-trading advances Rs.
- (v) Other properties or assets the income from which is not chargeable to income-tax as profits or gains of the business carried on by the company Rs.

(vi) Cash in hand and at bank	Rs.	Rs.

Less : Investments or moneys claimed by the company to be necessary for the existing business (details should be annexed) Rs.

Balance, representing the amount of available resources not already utilised in approved purposes as at the commencement of the previous year Rs.

3. Excess of 1 over 2, representing the portion of moneys attributable to the Statutory Surplus which has been utilised or is required to be utilised by the company for carrying out approved purposes Rs.

*Details regarding these purposes and expenditure already incurred or required to be incurred etc., should separately be furnished.

(Place)

Signature

(Date)

for Ltd.

FORM 'C'

(See Rule 14)

Application for Refund under Rule 14 of the Income-tax Allowances (Current Profits Deposit) Rules, 1957.

To

The Board of Referees,

We, Limited, having our Registered office at enclose herewith a Memorandum of Deposit issued on by the showing the amount of cash and securities held in deposit on out of the deposits made by us under sub-section (2B) of section 10 of the Indian Income-tax Act, 1922, and do hereby declare:—

(I) that the available resources of the company are insufficient to defray the expenditure for carrying out the approved purposes of the company (to the extent of Rs. as shown in Statement I enclosed).

(II) therefore, that out of the amount and the securities shown in the Memorandum mentioned above, a sum of Rs. and the securities listed in Statement 2 enclosed are required for carrying out the purposes mentioned in Statement I.

2. We, therefore, pray for a refund of the sum of Rs. and the return of the securities listed in Statement 2.

3. We hereby declare that the amount refunded and the securities returned will be utilised for carrying out the purposes aforesaid within six months of the date of the refund of money and the return of the securities.

(Place)

Signature

(Date)

for Ltd.

STATEMENT NO. 1

Computation of the available resources of the Company/and requirement for approved purposes

1. The company's total requirements for approved purposes:

Purpose for which expenditure required	Amount required Rs.	Period during which the expenditure is likely to be incurred
.....
.....
.....
Total amount required		

2. Investments of the company as on the date of application for refund :

(i) Government securities	Rs.	Rs.
(ii) Debentures of companies and local authorities	Rs.	
(iii) Shares of other companies	Rs.	
(iv) Loans, deposits and other non-trading advances	Rs.	
(v) Other properties or assets the income from which is not chargeable to income-tax as profits or gains of the business carried on by the company	Rs.	
(vi) Cash in hand and at bank	Rs.	

LESS : Investments or moneys claimed by the company to be necessary for the existing business (details should be annexed)

BALANCE, representing the amount of available resources not already utilised in approved purposes as at the commencement of the previous year

3. Excess of total requirements over approved purposes to the extent of which refund is required

(Place) Signature
(Date) for Ltd.

STATEMENT NO. 2

Particulars of Securities

	Face Value
.....	Rs.
.....	Rs.
.....	Rs.
(Place) ..	Signature ..
(Date) ..	for Ltd

FORM 'D'

(See Rule 15)

Application for determination of excess deposit under Rule 15 of the Income-tax Allowances (Current Profits Deposit) Rules, 1957

To

The Income-tax Officer,

We, Limited, having our Registered Office at have deposited Rs. under sub-section (2B) of section 10 of the Indian Income-tax Act, 1922 for the year ended 31st March

2. The amount of the current profits deposit for the above-mentioned year based on the total income as reduced by the order of the is Rs.

3. We, therefore, pray that the excess amount deposited, namely, Rs..... may be communicated to the Board of Referees for enabling them to authorise the refund of that amount.

4. We enclose herewith the Memorandum of Deposit issued on..... by the

(Place).....Signature.....

(Date).....for.....

Ltd.

[No. 32.]

N. H. NAQVI, Dy. Secy.